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10/650,896	08/28/2003	Carolyn A. Zacks	85649RRS	8692

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EXAMINER

PIZIALI, JEFFREY J

ART UNIT	PAPER NUMBER
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2629

MAIL DATE	DELIVERY MODE
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07/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

10/650,896

Examiner

Jeff Piziali

Applicant(s)

ZACKS ET AL.

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 05 April 2007 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☒ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☒ C. Other See Continuation Sheet.
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

Continuation of 3(c) Other:

Firstly, the applicants are thanked for the 'Response to Notice of Non-Compliant Amendment' filed 5 April 2007. However, a seemingly non-compliant amendment has been discovered in the aforementioned response, requiring attention before examination may continue.

37 CFR § 1.121(d) requires, "All changes to the drawings shall be explained, in detail, in either the drawing amendment or remarks section of the amendment paper."

37 CFR § 1.121(d) further requires, "Any changes to an application drawing must be in compliance with § 1.84 and must be submitted on a replacement sheet of drawings which shall be an attachment to the amendment document and, in the top margin, labeled 'Replacement Sheet'. Any replacement sheet of drawings shall include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is amended."

See also MPEP § 714(II)(D) which requires, "An explanation of the changes made must be presented in the 'Amendments to the Drawings' or the remarks section of the amendment document."

MPEP § 714(II)(D) further requires, "Any changes to an application drawing must comply with 37 CFR 1.84 and must be submitted on a replacement sheet of drawings, even when applicant is only submitting better quality drawings without any substantive changes."

In contrast, the 'Response to Notice of Non-Compliant Amendment' filed 5 April 2007 includes a replacement drawing for Figure 1, and states, "With respect to FIG. 1, a line connecting blocks 51 and 34 was added in the drawing changes illustrated herein" (see Page 2, Lines 5-6 of the 'Response to Notice of Non-Compliant Amendment' filed 5 April 2007).

However, with all due respect, "a line connecting blocks 51 and 34" was already present in the originally submitted Figure 1. As such, it is unclear whether the replacement copy of Figure 1 is seeking to add some new structural interconnection between the "controller" and "wall" -- or whether the aforementioned connecting line is substantially unchanged compared to the originally submitted Figure 1.

By such reasoning, this Notice of Non-Compliance is deemed necessary and proper at this time.

Please note: The amendments have not been checked to the extent necessary to determine the presence of all possible non-compliance errors. If additional issues of non-compliance are discovered in a subsequent amendment, yet another Notice of Non-Compliant Amendment will unfortunately be necessitated. Applicants' cooperation is requested in correcting any other errors of which applicants may become aware.



Jeff Piziali
18 June 2007